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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT
WITH THE CALIFORNIA HIGHWAY PATROL
FOR JOINT USE OF FIRING RANGE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILPITAS AS
FOLLOWS;

WHEREAS, there has been submitted to the City Council of the City of Milpitas a
proposed agreement to be entered into by and between the City of Milpitas and the California
Highway Patrol; and

WHEREAS, said Agreement is attached as Exhibit A and is made a part hereof.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milpitas that
the agreement attached as Exhibit A is approved and that the City Manager be authorized and
directed to execute for and on behalf of said City of Milpitas said Agreement.

PASSED AND ADOPTED this 18th day of May, 2004, by the following vote:

ATTEST:

APPROVED:

Gail Blalock, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

STANDARD AGREEMENT

STD 213 (Rev 6/03) (CHP Automated)

AGREEMENT NUMBER

3C340004-0

REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below

STATE AGENCY'S NAME

CONTRACTOR'S NAME

Milpitas Police Department

2. The term of this Agreement is: 01/01/2004 through 12/31/2006

3. The maximum amount of this Agreement is: \$10,800.00

Ten Thousand Eight Hundred Dollars And Zero Cents

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

Exhibit A - Scope of Work

1 page(s)

Exhibit B - Budget Detail and Payment Provisions

2 page(s)

Exhibit C* - General Terms and Conditions

GTC 304

Check mark one item below as Exhibit D:

☐ Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)

page(s)

☐ Exhibit - D* Special Terms and Conditions

Exhibit E - Additional Provisions

page(s)

Items shown with and Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto
 These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language/default.html.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR (if other than an individual, state whether a corporation, partnership, etc.)

Milpitas Police Department

BY (Authorized Signature)

DATE SIGNED (Do not type)


 PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

1275 N. Milpitas Blvd. Milpitas CA 95035

STATE OF CALIFORNIA

AGENCY NAME

BY (Authorized Signature)

DATE SIGNED (Do not type)


 PRINTED NAME AND TITLE OF PERSON SIGNING
M. Champa
ADDRESS

P.O. Box 942898, Sacramento, CA 94298-0001

California Department of
General Services Use OnlyEXEMPT FROM
DEPARTMENT OF GENERAL SERVICES
APPROVAL IN ACCORDANCE
WITH THE STATE
ADMINISTRATIVE MANUAL☐ Exempt per

EXHIBIT A
(Standard Agreement)

SCOPE OF WORK

1. Contractor agrees to provide weapons shooting range for monthly weapons training for personnel from CHP San Jose Area, located at 2020 Junction Avenue, San Jose, CA 95131. Contractor agrees to abide by the attached Specifications, marked Attachment 1.

The parties hereto agree to indemnify, defend and save harmless the other party, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the other party in the performance of this Agreement.

2. The services shall be performed at:

☐ If checked see attached for additional service locations

City of Milpitas Police Department
1275 North Milpitas Blvd.
Milpitas, CA 95035

3. The services shall be provided during:

Such times that are mutually agreeable to both parties.

4. The project representatives during the term of this agreement will be:

STATE AGENCY		CONTRACTOR	
Department of California Highway Patrol		Milpitas Police Department	
NAME		NAME	
Sergeant Spencer Boyce		LT STEVE PANGELINAN	
TELEPHONE NUMBER	FAX NUMBER	TELEPHONE NUMBER	FAX NUMBER
(408) 467-5400	(408) 467-5407	(408) 586-2400	(408) 586-2488

Direct all inquiries to:

STATE AGENCY		CONTRACTOR	
Department of California Highway Patrol		Milpitas Police Department	
SECTION/UNIT		SECTION/UNIT	
San Jose Area			
ATTENTION		ATTENTION	
Sergeant Spencer Boyce		LT STEVE PANGELINAN	
ADDRESS		ADDRESS	
2020 Junction Avenue, San Jose, CA 95131-2187		1275 N. Milpitas Blvd., Milpitas, CA 95035	
TELEPHONE NUMBER	FAX NUMBER	TELEPHONE NUMBER	FAX NUMBER
(408) 467-5400	(408) 467-5407	(408) 586-2400	(408) 586-2488

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- B. Invoices shall include the Agreement Number and shall be submitted in duplicate not more frequently than monthly in arrears to:

Name: Sergeant Spencer Boyce
Office: CHP San Jose Area
Address: 2020 Junction Avenue
San Jose, CA 951131-2187

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

EXHIBIT B
(Standard Agreement)

4. **Budget Detail and Payment Provisions**

CHP agrees to pay Contractor in arrears at a rate of Three Hundred Dollars (\$300.00) per month for use of their weapons shooting range for the CHP San Jose Area.

ATTACHMENT 1

SPECIFICATIONS

1. The weapons range must be within thirty (30) miles of CHP San Jose Area, located at 2020 Junction Avenue, San Jose, CA 95131-2187.
2. The weapons range use shall be limited to CHP personnel assigned to the San Jose Area. Number of CHP personnel using range: One Hundred Twenty-Two (122).
3. Contractor agrees that CHP shall have the use of all on-site facilities located on the range for training programs without additional charge.
4. Contractor and CHP agree the weapons range shall be open and usable by members of CHP at such times that are mutually agreeable to both parties. Exclusive use of the facilities by CHP must be coordinated and mutually agreed to by both parties.
5. The CHP agrees that its members using the weapons range facilities under this contract shall be governed by the range safety rules established by Contractor.
6. Brass will be retained by Milpitas Police Department.
7. The weapons range must be able to accommodate the following:
 - a. .40 caliber pistol (loaded with Department-issued ammunition currently 180G).
 - 1) Twelve (12) shoots per year, one (1) each month or two (2) every other month.
 - 2) Two (2) qualification shoots which must be performed at the following distances: 2 yards, 4 yards, 7 yards, 10 yards, 15 yards, and 25 yards.
 - 3) Ten (10) practice shoots, of which two (2) night shoots are recommended.
 - 4) Use for make-up shoots at times mutually agreeable to both parties.
 - b. Tactical rifle (.223 caliber).
 - 1) Four (4) shoots per year (quarterly).
 - 2) One (1) night shoot is required.
 - 3) Maximum distance of 50 yards.
 - c. Shotgun (00 buckshot).
 - 1) Eight shoots per year (two quarterly).
 - 2) Two (2) night shoots required.
 - 3) Distance 15 yards maximum.

8. Inspection and test firing of weapons:

- a. All weapons are to be test fired after each required inspection by the Area Weapons Range Officer.
- b. Use of facility to test fire weapons will be coordinated between the Area Weapons Range Officer and the Contractor.

9. CHP reserves the right to cancel this contract with thirty-days prior written notice.

10. This contract may be amended with mutual consent of the parties hereto.

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)		Federal ID Number
By (Authorized Signature)		
Printed Name and Title of Person Signing		
Date Executed	Executed in the County of	

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement. Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

4. UNION ORGANIZING: Contractor hereby certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote or deter union organizing. (GC 16645-16649)

5. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

6. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

7. SWEATFREE CODE OF CONDUCT:

a. For all contracts, Contractor hereby certifies that it will comply with the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and with all other requirements of Public Contract Code Section 6108.

b. Contractor hereby certifies that no apparel, garments or corresponding accessories or equipment, material and supplies to be laundered, furnished or produced in whole or in part pursuant to this contract, are the result of sweatshop labor, forced labor or convict labor per Public Contract Code Section 6108.

8. DOMESTIC PARTNERS: Commencing on July 1, 2004 Contractor certifies that it is in compliance with Public Contract Code Section 10295.1 with regard to benefits for domestic partners. For any contracts executed or amended, bid packages advertised or made available, or sealed bids received on or after July 1 2004 and prior to January 1, 2007, a contractor may require an employee to pay the costs of providing additional benefits that are offered to comply with PCC 10295.1.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (PCC 10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (PCC 10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (PCC 10420) Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 [e])

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

- a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
 - b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
 - c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.
6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.
7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.
8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other government entity.